



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**DEC 10 2015**

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

Article Number: 7014 1200 0000 6123 9958

Mr. Van B. Norris  
Chief Financial Officer  
Hammersmith Manufacturing & Sales, Inc.  
401 Central Avenue  
Horton, Kansas 66439

RE: Hammersmith Manufacturing. & Sales, Inc.  
401 Central Avenue  
Horton, Kansas 66439  
RCRA ID No.: KSR000507020

Dear Mr. Norris:

**Letter of Warning/Request for Information**

On April 29, 2014, representatives of the U.S. Environmental Protection Agency (EPA) inspected your facility. The inspection was conducted under the authority of Section 3007 of the Resource Conservation and Recovery Act (RCRA).

My staff has reviewed the inspection report, and your May 28, 2014, responses to the Notice of Violation (NOV). The EPA has determined that violations of RCRA were documented. We are requesting additional information regarding your facility's compliance status. Enclosed is a list of violations, a list of questions and/or requested information, and instructions to be used in providing your response. Please carefully read and follow these instructions. Your response to this request in accordance with the instructions is required by Section 3007 of RCRA and substantial penalties may result from not complying. Please note that the EPA reserves its right to pursue appropriate enforcement actions, including penalties, for violations discovered as a result of the inspection, regardless of whether the violations were subsequently corrected.



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Within thirty (30) calendar days of receiving this letter, please mail your response to: Kevin D. Snowden, AWMD/WEMM, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas, 66219. To request an extension of the time limit, follow the instructions in the enclosure. Please direct all questions concerning this letter to Mr. Snowden, of my staff, at (913) 551-7022, or by email at [snowden.kevin@epa.gov](mailto:snowden.kevin@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Donald Toensing', is written over the printed name.

Donald Toensing  
Chief

Waste Enforcement and Materials Management Branch  
Air and Waste Management Division

Enclosures (3)

cc: Ms. Rebecca Wenner, Kansas Department of Health and Environment  
Kansas Department of Health and Environment District Office

List of Violations  
Hammersmith Manufacturing & Sales, Inc.  
401 Central Avenue  
Horton, Kansas 66439  
RCRA ID No.: KSR000507020

1. Kansas Administrative Regulations (KAR) 28-31-262a(e)(3)(A) referencing Title 40 Code of Federal Regulations (40 CFR) 262.11 – Failure to complete hazardous waste determinations on the following waste streams:
  - a. paint booth filters;
  - b. floor sweepings;
  - c. spent lamps;
  - d. paint booth floor waste;
  - e. disposable wipes;
  - f. sanding pads;
  - g. waste grinding wheels;
  - h. steel shot dust (speculative accumulation);
  - i. 19, 5-gallon pails observed in the old shed located on the northwest side of the facility;
  - \*j. spent thinner used to clean painting equipment (as described on pages 10-11 of the RCRA inspection report); and
  - \*k. coolant containing the severely hydrotreated petroleum oil (as described on pages 4-5 of the RCRA inspection report).
2. KAR 28-31-262a(e)(3)(D) referencing 40 CFR 262.34(c)(1)(i) referencing 40 CFR 265.173(a) – Failure to keep a satellite container of spent solvent closed during storage except when it is necessary to add or remove waste.
3. KAR 28-31-262a(e)(3)(D) referencing 40 CFR 262.34(d)(5)(ii) – Failure to post emergency information next to the telephone.
4. KAR 28-31-262a(e)(4) – Failure to provide a hazardous waste training program.
5. KAR 28-31-262a(e)(3)(H) referencing 40 CFR 265.37 – Failure to make arrangements with the local authorities (i.e., police, fire department, emergency response teams, and hospital).
6. \*\*KAR 28-31-279 referencing 40 CFR 279.22(c)(1) – Failure to label or clearly mark a container used to store used oil with the words, “Used Oil.”
7. \*KAR 28-31-279 referencing 40 CFR 279.22(b)(2) – Containers used to store used oil at generator facilities must be not leaking (no visible leaks).
8. \*KAR 28-31-279 referencing 40 CFR 279.22(d) – Failure to respond to a release of used oil by stopping and containing the release; cleaning up and managing properly the released used oil and other materials; and if necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

\* - This violation was added following the EPA’s review of the inspection.

\*\* - This violation was added following the EPA’s review of the inspection report and was corrected during the inspection.

Requested Information  
Hammersmith Manufacturing & Sales, Inc.  
401 Central Avenue  
Horton, Kansas 66439  
RCRA ID No.: KSR000507020

1. Please identify all persons responding to the questions in this letter. Please include names, titles, and telephone numbers, if different from the facility's telephone number.
2. In reference to Violation No. 1, a hazardous waste determination must be conducted on each individual waste stream prior to combining these waste streams. Therefore, please provide the following information concerning your hazardous waste determination on each individual waste stream:
  - a. a determination of whether or not the waste has been excluded from regulation under 40 CFR Part 261.4;
  - b. a determination of whether or not the waste has been listed as a hazardous waste in Subpart D of 40 CFR Part 261. **If the waste is a listed hazardous waste, please provide the listed waste code in your response;** and
  - c. a determination of whether or not the waste is identified in 40 CFR Part 261 Subpart C. To determine whether the waste exhibits any of the hazardous characteristics in Subpart C, the waste may need to be analyzed using one of the methods found in Subpart C of 40 CFR Part 261, or by applying knowledge of the waste characteristics based upon the materials or processes used. Any laboratory analyses used to make this determination must be provided to EPA as well as a detailed description as to how each sample was taken. **If the waste is a characteristic hazardous waste, please provide the characteristic waste code in your response.**
  - d. If your facility elects to apply knowledge to make a waste determination of the waste streams identified above, you must provide a detailed explanation and your reasoning regarding the basis for this determination. **Also, if you apply knowledge to make the waste determination, please include all hazardous waste codes for the waste in your response.**
  - e. For each hazardous waste identified in your response to 2.b., 2.c., and/or 2.d., please provide:
    - 1) the amount of each hazardous waste generated on a monthly basis,
    - 2) the amount of each hazardous waste observed, identified, and that is currently stored at your facility, and
    - 3) as applicable, the manifest, bill of lading, or other shipping document showing that each hazardous waste has been shipped offsite for disposal.
    - 4) In the event that any of the identified hazardous waste is still in storage at your facility, please provide photographs of the wastes and identify your plans for disposing these wastes.
    - 5) In the event that your hazardous waste determinations cause your facility's hazardous waste generator status to change from a Kansas Small Quantity Generator (KSQG) to a Small Quantity Generator (SQG) or a Large Quantity Generator (LQG), please include in your response, documentation showing that your facility has provided notification to the Kansas Department of Health and Environment (KDHE) at (785) 296-1600 as required by KAR 28-31-262 referencing 40 CFR 262.12.

- f. In reference to Violation No. 1.j., the inspector observed the thinner container label and determined that the thinner contained methyl ethyl ketone (MEK) (see RCRA inspection report photographs 8 and 9). MEK is a F005 constituent, but the amount the solvent contained was unknown at the time. Hammersmith is required to verify the hazardous waste determination on the thinner and determine whether the waste stream is also a F005 RCRA listed hazardous waste. If the thinner waste is determined to be a F005 RCRA listed hazardous waste, the Land Disposal Restriction (LDR) notice is required to be updated to include all applicable codes (i.e., not only D001).
- g. In reference to Violation No. 1.k., according to pages 4-5 of the RCRA inspection report, Hammersmith generates a coolant that contains 40 to 50 percent of a "severely hydrotreated petroleum oil" as described by the coolant's material safety data sheet (MSDS). The EPA is requesting Hammersmith to provide in its response, additional information concerning whether this coolant is considered an oil. It should be noted that the 40 CFR 279 used oil standards apply to used oil until a person disposes of it, or sends it for disposal. The person that disposes the used oil must complete a hazardous waste determination on the waste stream. Therefore, if the used oil waste stream is disposed and is non-hazardous, then it is subject to 40 CFR Parts 257 and 258 (solid waste regulations).
3. In reference to Violation No. 2, the inspector observed an open satellite accumulation container of spent thinner located inside of the paint booth area. The funnel inside of the 55-gallon container was loose and the container lid was unsecured. Therefore, please provide photographs demonstrating that this satellite accumulation container is closed as required by 40 CFR 265.173(a).
4. In reference to Violation No. 3, your May 28, 2014 NOV response provided a photograph showing your facility's emergency information posting. However, this photograph was blurry and unreadable. In your response to this letter, please provide a photocopy of your facility's emergency information posting along with a clear photograph showing the location(s) where this information is posted with respect to the facility's telephone.
5. In reference to Violation No. 4, please provide information showing that your facility has established a hazardous waste training program that is meeting the requirements found at KAR 28-31-262a(e)(4). Your response should demonstrate and/or provide:
- documentation showing new personnel have been trained within six months after their employment or placement in a new position;
  - documentation that employees have been trained on an annual basis following the initial training for three years prior to the inspection and following the inspection;
  - records showing the name of each employee trained, the date of the training, and the topics covered during the training; and
  - documentation showing that employees managing hazardous waste have been trained on the locations of the facility's emergency information posting in the event that facility personnel are using cellular telephones during emergencies instead of a facility landline telephone or other communication device (as applicable).
6. In reference to Violation No. 5, your response is required to provide the following information demonstrating that your facility has made the necessary arrangements with the local authorities (i.e., police, fire department, emergency response teams, and hospital) including documentation showing:

- the local emergency authorities have been familiarized with the facility layout, properties and hazards of each waste handled, locations of workers, entrances to facility roads, and possible evacuation routes;
- that one authority has been designated, where more than one police department or fire department might respond to an emergency;
- agreements made with state emergency response teams, emergency response contractors, and equipment suppliers;
- documentation showing local hospitals have been familiarized with the properties of hazardous waste handled and types of injuries or illnesses which could result from fires, explosions, or releases at the facility; and
- in the event that any state or local authority declines to enter into such arrangements (as listed above), your response is required to provide documentation of the refusal.

7. In reference to Violation Nos. 7 and 8, please provide photographs demonstrating that the spill from the metal shaving dumpster that was observed during the EPA's April 29, 2014 RCRA inspection has been managed (i.e., cleaned up, etc.) in accordance with RCRA. In addition, Hammersmith Mfg. & Sales, Inc. is required to provide documentation showing it has taken actions to stop any additional releases from this unit. Hammersmith may also demonstrate that it has removed the used oil from the metal shavings prior to placement in the dumpster.

### 3007 RESPONSE INSTRUCTIONS

- Identify the Person(s) responding to this request on your behalf.
- Address each numbered item separately, and precede each answer with the number of the item to which it responds.
- For each numbered item, identify all documents consulted, examined, or referred to in the preparation of the answer, or that contain information responsive to the requested item. Provide true, accurate, and legible copies of all such documents. (If information responsive to an item is available but there are no relevant source documents, you must still provide the information.)
- For each document provided, indicate on the document (or in some similar manner) the number of the item to which it responds.
- For each numbered item, identify all persons consulted in the preparation of the answer.
- For purposes of this request, the term "you" or "your" refers to the company, corporation and any officer, principal, agent employee, or any other person(s) associated in any capacity.
- If information responsive to a requested item is not in your possession, identify the person(s) from whom the information may be obtained.
- If information that is not known or available at the time you make your response later becomes known or available to you, you must supplement your response.
- If, at any time after you submit your response, you find that any part of the information you submitted is incomplete, false, or misrepresents the truth, you must notify the EPA immediately.
- You must provide the requested information even though you consider it confidential information or trade secrets. If you want to make a confidentiality claim covering part or all of the information submitted, identify the material with words such as "trade secret," "proprietary," or "company confidential."
- The EPA will disclose this information only to the extent and by the means described in 40 CFR Part 2, Subpart B., provided that it qualifies as confidential business information.
- A request for an extension to the time limit for responding must be in writing and must be postmarked within five (5) calendar days of receipt of this information request. Address it to the person identified in the cover letter to receive your response.
- Copies of the Code of Federal Regulations may be obtained from the U.S. Government Bookstores or on the Internet at [www.epa.gov/epahome/cfr40.htm](http://www.epa.gov/epahome/cfr40.htm).
- This request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1980.
- The EPA encourages you to conserve resources. Suggested methods include use of recycled paper, printing on both sides (duplex printing), and when possible submitting documents electronically (i.e., email or compact discs). If hard copy submittals are necessary, please do not submit documents in binders.

Not responding to this information request within the stated time limit and in accordance with these instructions may subject your facility to an enforcement action which could include the imposition of penalties of up to \$37,500 per violation, per day of continued noncompliance. Providing false, fictitious, or fraudulent statements or representations could lead to criminal penalties.

